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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/690,421	10/20/2003	Steven S. Larsen	PLARSS	3835

7590 11/01/2005
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EXAMINER

DONAHOE, CASEY D

ART UNIT	PAPER NUMBER
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3732

DATE MAILED: 11/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/690,421	Applicant(s) LARSEN, STEVEN S.	
	Examiner Casey Donahoe	Art Unit 3732	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Information Disclosure Statement

1. The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609 A(1) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

Claim Objections

2. Claim 1 objected to because of the following informalities: Change "that" to "than" in the last line. Appropriate correction is required.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 2, 5, and 6 are rejected under 35 U.S.C. 102(b) as being anticipated by Powers (U.S. 904,990).

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Regarding claim 1, Powers discloses an endodontic instrument (Figs 1-3), which comprises:

A handle (B) having an elongated base with a threaded projecting at a first end;

And a cap (A) containing a channel extending through a first end of the cap with a first portion being threaded for mating with the projection of the elongated base of the handle; the cap possessing a side, and the cap also having a second end containing an aperture (14) through which an endodontic file can project, the diameter of the aperture being selected to be larger than the diameter of the endodontic file but smaller than the diameter of a plastic cap attached to the endodontic file.

Regarding claim 5, the aperture (14) extends to the side of the cap and on the side is enlarged (15) to dimensions sufficient to permit the introduction in the channel of the plastic cap attached to an endodontic file.

Regarding claims 2, and 6, the maximum outer diameter of the cap is substantially the same as the maximum outer diameter of the elongated base.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 3, 4, and 7-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Powers in view of Lovaas (U.S. 5,197,880).

Powers discloses an endodontic instrument, as described above, capable of use with many endodontic files, but fails to disclose a particular endodontic file with a plastic cap and tip, which moves away from then curves back toward a centerline which it eventually crosses. Lovass discloses a tool for crimping endodontic files, and in doing so illustrates endodontic files with the specified configuration (Fig. 5). Lovass implies that endodontic files shaped with such bowed configurations are advantageous for working on and enlarging root canals of non-linear shapes (Column 1, lines 22-27). It would have been obvious at the time of the invention to use a bent endodontic file as disclosed by Lovass in combination with the endodontic instrument disclosed by Powers, in order that such files may be used on non-linear root canals with a device that allows for ease in handling and angular adjustment of the file so it may be used more readily and with more satisfactory results (Powers, page 1, lines 9-18).

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Schnall (U.S. 4,251,214) discloses a clamping handle for root canal instruments.

Reiter et al. (U.S. 5,092,769) discloses a handle for root canal instruments.

Mosley (U.S. 1,115,718) discloses a with a side aperture for dental instruments.

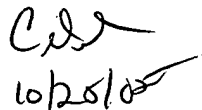
Perry (U.S. 656,300) discloses a dental root canal drier.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Casey Donahoe whose telephone number is (571) 272-2812. The examiner can normally be reached on Monday - Thursday (7:30 - 5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Shaver can be reached on (571) 272 -4720. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


10/25/05

Casey Donahoe
Examiner
Art Unit 3732


Ralph A. Lewis
Primary Examiner
au 3732